

Message Text

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42

ACTION L-02

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FM AMMBASSY MEXICO

TO SECSTATE WASHDC 6155

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.O. 11652: N/A

TAGS: INV

SUBJ: CALVO CLAUSE AND RELATED PROVISIONS

REF: STATE 024007

1. MEXICO HAS LONG-STANDING ADMIRATION FOR CALVO AND HIS CLAUSE AND DOCTRINE. THIS IS INCORPORATED INTO THE MEXICAN CONSTITUTION (ARTICLE 27, PARA. 4, CLAUSE 1) WHICH STATES THAT FOREIGNERS CAN BE PERMITTED TO ACQUIRE LANDS OR WATERS ONLY IF THEY AGREE NOT TO CONVOKE THE PROTECTION OF THEIR GOVERNMENTS UNDER THE PENALTY OF LOSING ANY GOODS THEY HAVE ACQUIRED TO THE NATION. THIS IS REITERATED IN THE 1973 LAW TO PROMOTE MEXICAN INVESTMENT AND REGULATE FOREIGN INVESTMENT (ARTICLE 7).

2. FURTHER, ARTICLE 3 OF 1973 LAW STATES: "FOREIGNERS WHO ACQUIRE PROPERTY OF ANY KIND IN THE MEXICAN REPUBLIC SHALL, BECAUSE OF THE FACT OF SUCH ACQUISITION, BE CONSIDERED AS MEXICAN NATIONALS WITH REGARD TO THE PROPERTY AND MAY NOT INVOKE THE PROTECTION OF THEIR GOVERNMENTS WITH RESPECT THERETO, UNDER PENALTY, IN THE CASE OF VIOLATION OF THIS PROVISION, OF FORFEITING TO THE MEXICAN GOVERNMENT THE PROPERTY THUS ACQUIRED."

3. GOM'S PRESENTATION TO CONGRESS OF THIS LAW STATES IN REFERNCE TO ARTICLE 3, THAT THIS "RECOGNIZES THE PRINCIPLE THAT FOREIGN CAPITAL MUST SUBMIT ITSELF TO THE

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LAWS OF THE COUNTRY WHICH RECEIVE IT, AND THAT IT WILL

NEVER BE LEGAL TO HAVE RECOURSE TO POLITICAL PRESSURES
TO SOLVE ECONOMIC CONTROVERSIES." EXPLANATION ALSO TIES
THIS TO CALVO, ADDING THAT RECOURSE BY FOREIGNERS TO THE
PROTECTION OF THEIR GOVERNMENTS TO PROTECT THEIR INVEST-
MENTS IS INADMISSIBLE AND CONTRARY TO PRINCIPLES OF
INTER-AMERICAN LAW.
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